

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**BASF AGRO B.V., ARNHEM (NL),
WÄDENSWIL BRANCH, BAYER
S.A.S., and MERIAL LIMITED,**

Plaintiffs,

v.

CHEMINOVA, INC.,

Defendant.

Civil Action No. 10-cv-274

**BASF AGRO B.V., ARNHEM (NL),
WÄDENSWIL BRANCH, and
BAYER S.A.S.,**

Plaintiffs,

v.

**MAKHTESHIM AGAN OF NORTH
AMERICA, INC., and CONTROL
SOLUTIONS, INC.,**

Defendants.

Civil Action No. 10-cv-276

**PLAINTIFFS' MOTION TO STAY ALL PROCEEDINGS FOR 30 DAYS
PENDING ISSUANCE OF *MARKMAN* ORDER ON KIMURA PATENTS AND
RESOLUTION OF PLAINTIFFS' MOTION FOR CLARIFICATION**

Plaintiffs BASF Agro B.V., Arnhem (NL), Wädenswil Branch (“BASF”), Bayer S.A.S. (“Bayer”), and Merial Limited (“Merial”) (collectively, “Plaintiffs”) respectfully move the Court to stay all proceedings for 30 days in the cases captioned *BASF Agro B.V. et al. v. Cheminova, Inc.*, Civ. A. No. 10-274 (the “Cheminova case”),

and *BASF Agro B.V. et al. v. Makhteshim Agan of North America, Inc., et al.*, Civ. A. No. 10-276 (the “MANA case”).

For the reasons set forth in Plaintiffs’ Brief in Support of its Motion to Stay, filed herewith, the Court’s May 27, 2011 Memorandum Opinion and Order [D.I. 173 (MANA case)] denying Plaintiffs’ Motion for Preliminary Injunction materially altered the status of these cases.

A 30-day stay in each case will allow the Court sufficient time to complete its *Markman* order, and to review Plaintiffs’ forthcoming motion for clarification of the Court’s May 27, 2011 Opinion and Order, which will be filed within the next week. This stay will also allow the parties to assess the impact of the Court’s May 27 Opinion and Order, and supplement expert reports, summary judgment briefs, and other related papers.

A 30-day stay is limited in duration, the balance of hardships among the parties favors such a stay, and a 30-day stay would promote judicial economy by avoiding duplicative litigation.

For the foregoing reasons, Plaintiffs’ respectfully request the Court to enter a 30-day stay in all proceedings in the Cheminova and MANA cases. A proposed order is attached.

Respectfully submitted:

**WOMBLE CARLYLE SANDRIDGE & RICE,
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DATED: June 1, 2011

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the **PLAINTIFFS' MOTION TO STAY ALL PROCEEDINGS FOR 30 DAYS PENDING ISSUANCE OF MARKMAN ORDER ON KIMURA PATENTS AND RESOLUTION OF PLAINTIFFS' MOTION FOR CLARIFICATION** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants: Greg Holland, greg.holland@smithmoorelaw.com, Marta E. Gross, mgross@goodwinprocter.com, Joseph B. Crystal, jcrystal@goodwinprocter.com, Michael Beck, mbeck@goodwinprocter.com, April E. Abele, aabele@goodwinprocter.com, Andy H. Chan, achan@goodwinprocter.com, and Thadeus Matthew Creech, matt.creech@smithmoorelaw.com.

This the 1st day of June, 2011.

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